

Remarks:

Reconsideration of the application is respectfully requested.

Claims 1 - 8 and 10 - 19 are presently pending in the application. Claim 9 was cancelled in a previous response.

As it is believed that the claims were patentable over the cited art in their original form, the claims have not been amended to overcome the references.

In item 3 of the above-identified Office Action, claims 1, 2 and 10 - 19 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U. S. Patent No. 5,983,112 to Kay ("KAY") in view of U. S. Patent No. 3,798,600 to Saikaishi et al ("SAIKAISHI"). In item 4 of the Office Action, claims 3 - 8 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over KAY in view of SAIKAISHI, and further in view of U. S. Patent No. 6,314,125 to Shanbhag ("SHANBHAG").

Applicants respectfully traverse the above rejections.

More particularly, as stated in the previous response, independent claims 1 and 11 recites, among other limitations:

wirelessly transmitting, in the radio access control system, a data message containing an access code more than one time using at least two different carrier frequencies in temporal succession to increase immunity to interference; [emphasis added by Applicants]

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Similarly, Applicants' independent claim 12 recites, among other limitations:

a transmitter modulating data messages containing an access code with said carrier frequencies and wirelessly transmitting the data messages in temporal succession in the radio access control system.
[emphasis added by Applicants]

Applicants' independent claim 12 recites, among other limitations:

a transmitter modulating data messages containing an access code with said carrier frequencies and wirelessly transmitting the data messages more than one time using at least two different carrier frequencies in temporal succession in the radio access control system to increase immunity to interference;
[emphasis added by Applicants]

As such, all of Applicants' claims require, among other things, that the data messages containing an access code be sent using at least two different carrier frequencies in temporal succession.

On page 2 of the final Office Action mailed May 13, 2005 ("final Office Action") in response to Applicants' arguments it is stated, that:

Applicants contends that the prior art, i.e., the Kay patent, fails to teach "wirelessly transmitting a data message more than one time using at least two different carrier frequencies in temporal succession" while it is said that the configuration of the Key

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patent "necessarily breaks the succession of data." To support this position, applicant cites Fig. 6 and col. 5, lines 57 - 59 of the Kay patent. However, this alleged non-successive message transmission occurs "under some circumstances." See col. 56, lines 43 - 44. The Kay patent clearly teaches transmitting a message on three different times at different frequencies. See col. 5, lines 5 - 7 and 15 - 20. Further more, the redundant message transmission even "under some circumstances" still reads on the claimed limitation at issue because a same message is transmitted over different frequencies in temporal succession, i.e., one after another. It should be noted that the claims do not require the lack of any time interval between transmissions of a message. All that is required is that they are transmitted "in temporal succession," which is exactly the manner a message is transmitted in the Kay patent for diversity purposes.

Applicants' respectfully disagree with the statements made in the Office Action, stating that: 1) KAY teaches "temporal succession"; and 2) the instant claims do not require the lack of any time interval between transmissions of a message.

More particularly, Merriam Webster's Online Dictionary (www.merriamwebster.com) defines "succession", as follows:

Main Entry: suc·ces·sion ☐

Pronunciation: s&k-'se-sh&n

Function: noun

Etymology: Middle English, from Middle French or Latin; Middle French, from Latin *succession-*, *successio*, from *succedere*

1 a : the order in which or the conditions under which one person after another succeeds to a property, dignity, title, or throne b : the right of a person or line to succeed c : the line having such a right

2 a : the act or process of following in order :

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SEQUENCE b (1) : the act or process of one person's taking the place of another in the enjoyment of or liability for rights or duties or both (2) : the act or process of a person's becoming beneficially entitled to a property or property interest of a deceased person c : the continuance of corporate personality d : unidirectional change in the composition of an ecosystem as the available competing organisms and especially the plants respond to and modify the environment

3 a : a number of persons or things that follow each other in sequence b : a group, type, or series that succeeds or displaces another [emphasis added by Applicants]

As can be seen from the commonly accepted definition, in the context of the present invention (i.e., not a royal succession), succession is the act or process of following in order (i.e., a sequence). As such, a temporal succession is the act or process of following in order in time. As a succession or sequence, it is understood by the very definition of the word succession, that there would not be any intervening time intervals between transmissions of the message. The very term succession requires that, as part of a sequence, the messages are sent one after another, without any time interval therebetween.

Contrary to the allegation in the Office Action, the KAY reference does not transmit the data of that reference, on different carrier frequencies in temporal succession. More particularly, KAY discloses that the redundant message need

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not be sent in temporal succession (i.e., in sequence). For example, in col. 3 of KAY, lines 7 - 11, states:

Accordingly, transmission on a frequency F1 followed by a transmission on a frequency F2 in the next 6 - 12 ms (where the slot duration is on the order of 6ms) are very likely to be uncorrelated, i.e. if one message fails, the other one will not. [emphasis added by Applicants]

As such, in a transmission having a slot duration of 6 ms, KAY teaches that the redundant transmission can be sent as far as 12 ms later, thus leaving as much as a whole slot empty. As such, the transmissions in KAY are not in temporal succession (i.e., following in sequence) as one time slot (one sequence) is left empty. See also Fig. 3 of KAY illustrating the transmission of FC1, FC3 and FC5 and described in col. 5, lines 37 - 43 ("As is apparent from Fig. 3, these three different subslots occur on three different frequencies and occur at three different points in time").

Further, as stated in the response to the previous Office Action, In KAY, the control channels (whether in the forward or reverse direction) are subdivided. As shown in FIG. 3, within each 6.67 ms slot time, there are two forward control channels. The 6.67 ms slot is subdivided into four subslots, as shown in FIG. 4. Importantly, as shown in Fig. 4, and explained in the paragraph in col. 5, beginning on line 14 of Kay, after the mobile has identified the initiation of a

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speech spurt the mobile then randomly selects an RA subslot from slot 1, an RA subslot from slot 2 and an RA subslot from slot 3. According to KAY, performance management (trading off increased delay for increased probability of successful transmission) may be implemented by randomly selecting subslots in the first three pairs of available subslots, etc. (col. 5, lines 22-25). Thus the redundant message is not required to be sent in temporal succession (i.e., in temporal sequence) as subslots not selected in the random selection process will intervene (i.e., break the temporal succession/sequence leaving holes in the sequence) between the chosen subslots.

As such, Applicants' claims requiring, among other limitations, the wireless transmission of the data in temporal succession, are believed to be patentable over the teachings of the KAY reference. The SAIKAISHI reference, cited against the independent claims in combination with KAY does not fix the deficiencies of KAY with regard to transmitting data in a temporal sequence.

Further, on page 3 of the Office Action, it is stated that in Applicants' claims "the preamble reciting a use in a 'radio access control system' is not given patentable weight since it merely calls for a field of use." Applicants' respectfully

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traverse that the limitation of a "radio access control system" was not considered by the Examiner for the patentability of the present claims. In the Response to the previous Office Action, Applicants' amended the claims to place the "radio access control system" limitation in the body of the claim. For example, claim 1 was previously amended to recite, among other limitations:

wirelessly transmitting, in the radio access control system, a data message containing an access code more than one time using at least two different carrier frequencies in temporal succession to increase immunity to interference;

Claims 11, 12 and 16 include a similar recitation. Thus, that the wireless transmission must occur in a radio access control system is part of the body of the claims, and must be given patentable weight. The Examiner has not cited a reference teaching or suggesting Applicants' wireless transmission in a radio access control system, as claimed, and the Examiner has further admitted that the limitation of the claim was given no weight. Applicants' respectfully traverse the failure to give recited limitations of the claims patentable weight and, in the absence of a reference showing Applicants' particularly claimed wireless transmission in a radio access control system, maintains that the instant claims are patentable over the cited references.

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Further, Applicants' claims require, among other limitations, that the wireless data containing an access code be transmitted. On page two of the Office Action, it was stated that "Likewise, the content of the transmission as being 'access code' is a matter of design choice depending on the field of use". Applicant respectfully traverses the Examiner's failure to give Applicant's access code, a specific part of the claimed invention, any patentable weight or to provide a reference teaching or suggesting the wireless transmission of Applicants' particularly claimed access code. In the absence of a reference showing Applicants' particularly claimed wireless transmission of data containing an access code, maintains that the instant claims are patentable over the cited references.

It is accordingly believed that none of the references, whether taken alone or in any combination, teach or suggest the features of claims 1, 11, 12 and 16. Claims 1, 11, 12 and 16 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claims 1, 12 or 16.

In view of the foregoing, reconsideration and allowance of claims 1 - 8 and 10 - 19 are solicited.

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In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out. In the alternative, the entry of the amendment is requested, as it is believed to place the application in better condition for appeal, without requiring extension of the field of search.

Additionally, please consider the present as a petition for a one (1) month extension of time, and please provide a one (1) month extension of time, to and including, September 13, 2005 to respond to the present Office Action.

The extension fee for response within a period of one (1) month pursuant to Section 1.136(a) in the amount of \$120.00 in accordance with Section 1.17 is enclosed herewith.

Please provide any additional extensions of time that may be necessary and charge any other fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

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Respectfully submitted,



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